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Susan LaMont
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

K. FRANCIS, et al.

Serial No.: 09/657,289

Art Unit: 1652

Filing Date: 7 September 2000

Examiner: E. Slobodyansky

Title: LUCIFERASE EXPRESSION CASSETTES AND METHODS OF USE

RESPONSE TO REQUIREMENT FOR RESTRICTION
AND AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Restriction Requirement in the above-referenced application, mailed 19 December 2001. The response date, with 2-month extension, falls on a Tuesday. Accordingly, the response date is 19 March 2002. A 2-month extension of time to respond is requested and a check therefore accompanies this response. No further fees are believed due; however, the Commissioner is hereby authorized to charge to Deposit Account No. 18-1648 any further fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper, with the exception of the payment of the Issue Fee. Reconsideration of the application in view of the following amendments and remarks is respectfully requested.

ACCOMPANYING DOCUMENTS

1. A marked-up claim set indicating the amendments set forth in this paper (Appendix A);
2. A claim set corresponding to the pending claims after entry of the amendments set forth in this paper (Appendix B);
3. Petition for Extension of Time;
4. Change of Status;
5. Change of Mailing Address; and
4. A check.

1. Response to Restriction Requirement

This is in response to the Restriction Requirement dated 19 December 2001, wherein the Examiner required election of one of the following groups of claims:

Group I, claims 1-43, 49-51, 53, 54, 56-59, 62, 64 and 65, drawn to an expression cassette comprising lux genes, a vector comprising it, a cell transformed with the same, and a method of use of said cell, classified in class 435, subclass 252.3.

Group II, claims 44-48, 52, 55, 66 and 67, drawn to an expression cassette comprising luc gene, a vector comprising it, a cell transformed with the same, and a method of use of said cell, classified in class 435, subclass 252.3.

Group III, claims 60, 61 and 63, drawn to a transgenic organism and a method of use thereof, classified in class 800, subclass 13.

Applicants elect to begin prosecution with the claims of Group I, 1-43, 49-51, 53, 54, 56-59, 62, 64 and 65, as amended herein. Applicants make this election with traverse.

Applicants submit that the inclusion of claims 60 and 61 in Group III is inappropriate as those claims are not directed to a transgenic animal, rather the claims are directed to a Gram-positive bacteria comprising a luciferase expression cassette (according to claim 1) wherein the Gram-positive bacteria is introduced into a whole animal. Accordingly,